

**STAFF REPORT
ZONING BOARD OF ADJUSTMENT
Thursday, April 12, 2018
9:00 a.m.
Room 105 of the Courthouse Annex
325 2nd Ave North, Great Falls, Montana
UUP #001-2018**

Applicant/Subject Property Information

Name of Applicant:	Pacific Northwest Solar, LLC 9450 SW Gemini Dr, #33304 Beaverton, OR 97008
Name of Owner:	Robert and Darla Heihn 161 Bootlegger Trail Great Falls, MT 59404
Geo Code:	02-3139-19-2-01-01-0000
Parcel Number:	0002688500
Existing Zoning:	Suburban Residential (SR2)
Acreage:	30 acres on a parcel of 112.08 acres
Requested Action:	Approval of Unclassified Use Permit for the installation/operation of a photovoltaic solar power generation facility
Adjacent Land Zoning:	North: Residential (SR2) South: Residential (SR2) East: Residential (SR2) West: Bootlegger Trl. /Residential (SR2)
Adjacent Land Uses:	North: Agriculture, undeveloped South: Horse boarding facility, undeveloped East: Agriculture, undeveloped West: Bootlegger Trl, Agriculture
Existing Land Use:	grassland, currently not developed

Applicable Regulations:

Section 8.9, Section 8.12, and Section 18, Cascade County Zoning Regulations

General Information:

The Cascade County Zoning Board of Adjustment is in receipt of an Unclassified Use Permit Application from the Pacific Northwest Solar, LLC and property owners Robert and Darla Heihn for the installation/operation of a photovoltaic solar power generation facility. The applicant is requesting that an Unclassified Use Permit be granted as required by Section 18.1 (9) of the Cascade County Zoning Regulations.

Unclassified Use Permit Considerations:

Pursuant to Sections 8.9, 8.12, and 18 of the Cascade County Zoning Regulations an Unclassified Use Permit is authorized for:

Section 8.9 Power Plants providing they meet the following conditions:

1. must meet all state, federal, and local regulations regarding the uses.
2. must not have any advertising signage attached to them.
3. must not interfere with any electrical components of neighboring properties.
4. must be fenced or protected to prohibit unauthorized access.
5. must be located at least 1000 feet from any use listed in 7.1.1.1 (2).

Section 8.12 Power Plant, Solar, providing they meet the following conditions:

Based on the typical solar power plant design, uses tend to be low in intensity with minimal trip generation, low amounts of impervious cover, and low emission thus the use may be compatible in both urbanized and non-urbanized areas throughout the County. Standards for power plant generation by solar energy shall be subject to the administrative requirements of Section 18 and the following site development standards:

- (1) Lot coverage: All buildings including accessory buildings shall not cover more than thirty-five percent (35%) of a lot unless adjusted by the Zoning Board of Adjustment.
- (2) Setbacks: solar power plant structures shall be set back from all property lines at least thirty (30) feet from the front

and six (6) feet from the side yards, and ten (10) feet from a rear yard.

- (3) Landscaping Buffer: as determined by the Zoning Board of Adjustment through the Unclassified Use Permit process with considerations of location, size of parcel and topography of parcel. Appropriate landscaping and/or screening materials may be required to help screen the solar power plant and accessory structures from major roads and neighboring residences.
- (4) No solar power plant tower or other tall structure associated with a solar power plant shall be lighted unless required by the Federal Aviation Administration (FAA). When lighting is required by FAA, it shall be the red, intermittent, glowing-style, rather than the white, strobe-style.
- (5) Siting requirements of any structure within the Height Military Overlay District (HMOD) must be met. Any variance requested for over-height must be presented to Malmstrom's reviewing staff and approved.
- (6) Safety/Access: An appropriate security fence (height and material to be determined through the Unclassified Use Permit process) shall be placed around the perimeter of the solar power plant.
- (7) Signage: appropriate warning signage shall be placed at the entrance and perimeter of the solar power plant project.
- (8) Noise: No operating solar power plant shall produce noise that exceeds any of the following limitations:
 - (a) Fifty dBA, as measured at the property line of any neighboring residentially-zoned lot;
 - (b) Forty-five dBA, as measured at any existing neighboring residence between the hours of nine p.m. and seven a.m.
 - (c) Sixty dBA, as measured at the property lines of any other project boundary.
- (9) Agreements/Easements: If the land on which the project is to be leased rather than owned by the solar energy development company, all property within the project

boundary must be included in a recorded easement(s), lease(s), or consent agreement(s) specifying the applicable uses for the duration of the project and a copy provided with an Unclassified Use Permit application.

- (10) Removal: Structures that remain nonfunctional or inoperative for a continuous period of one year shall be deemed to be abandoned, shall constitute a public nuisance and shall be removed by the owner/operator.

Section 18 Unclassified Use Permits, providing they meet the following requirements.

Unclassified uses shall be subject to all applicable property development standards of the district in which they are to be located and to the provisions outlined within this section. In addition, the following uses may be permitted by Unclassified Use Permits except for any use, including a power generating plant, which utilizes coal, coke, or other coal-based fuel as an industrial fuel source.

Unclassified uses are hereby said to possess characteristics of such unique and special forms that each use shall be considered as an individual case regardless of their underlying zone district.

An Unclassified Use Permit may be issued only upon meeting all requirements in these regulations for a specific use which is explicitly mentioned as one of the "Uses Permitted Upon Issuance of an Unclassified Use Permit" as provided in this section. After the public hearing is closed, the Zoning Board of Adjustment can approve, deny, or approve with conditions the Unclassified Use Permit. A separate Unclassified Use Permit shall be required per each tract of land. The Unclassified Use Permit fee shall be \$450.00.

Section 18.5 Standards Applicable To All Unclassified Uses

Before the Board of Adjustment can approve any Unclassified Use Permit, it must first reach each of the following conclusions: (Conditions may be required that the Zoning Board of Adjustment determines, if implemented will mitigate potential conflicts in order to reach these conclusions.)

- (1) The proposed development will not materially endanger the public health or safety

Considerations:

- a. Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersections and approaches.

b. Provision of services and utilities, including sewer, water, electrical, telecommunications, garbage collection, and fire protection.

c. Soil erosion, sedimentation, and stormwater run-off

d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

(2) The proposed development is a public necessity, or will not substantially impact the value of adjoining property.

Considerations:

a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

b. Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or County as a whole as to justify it regardless of its impact on the value of adjoining property.

(3) The proposed development will be in harmony with the area in which it is located.

Considerations:

a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

(4) The proposed development will be consistent with the Cascade County Growth Policy.

Considerations:

a. Consistency with the Growth Policy objectives for the various planning areas.

b. Consistency with the municipal and joint land use plans incorporated by the Growth Policy.

Section 18.6 Operations

Operations in connection with the Unclassified Use Permits shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

Findings with Respect to the Analysis Criteria:

Staff provides that the following analysis, findings and conclusion for each of the required criteria and conclusions provided under the controlling sections of the Zoning Regulations.

- 1. The proposed development will not materially endanger the public health or safety.***

Considerations:

- a. Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersection and approaches.***

APPLICANT: Traffic conditions in the project vicinity are very light due to Bootlegger Road being a rural road with very low residential development in the area. The project will not add significantly to the traffic in the area due to the facility being an un-manned facility and not needing maintenance on a week to week basis.

STAFF: Based upon the application materials submitted, the project is not expected to materially endanger the public health or safety with respect to traffic conditions in the vicinity including the proposed anticipated traffic involved with initial construction, and the proposed anticipated traffic generated once the facility is in operation. The Montana Department of Transportation conducted a traffic count on Bootlegger Trail in 2016 that concluded, on average there are 2,244 trips per day. The trips per month to maintain the solar plant should not negatively or positively impact the traffic conditions.

- b. Provision of services and utilities including sewer, water, electrical, garbage collections, and fire protection.***

APPLICANT: The project will not require water, sewer, or garbage services. It will connect to the existing distribution electrical line on Bootlegger Road.

STAFF: The application materials demonstrate that the project will not affect the provision of services and utilities including sewer, water, garbage collection and fire protection based upon the application materials submitted, as this facility does not have a need for telecommunications, water, sewer, or garbage collection after construction. The application materials included a system impact study done by Northwestern Energy that concluded that the solar plant would not interfere with neighboring properties power supplies. Fire Protection Services will be provided by Black Eagle Fire District.

- c. Soil erosion and sedimentation.***

APPLICANT: The project will involve only limited grading for on-site roads and inverters. The ground under the solar array will not require grading. Additionally,

existing vegetation will be maintained to add with elimination of soil erosion. The Project will comply with Montana DEQ erosion control standards.

STAFF: The application material proposals for stormwater management as well as required compliance with Montana Department of Environmental Quality (MDEQ) regulations would indicate that the project will minimally effect soil erosion and sedimentation, either during the construction phase or after construction during the operational period based upon a detailed erosion and sedimentation control plan that seeks to minimize disturbance of the natural vegetation, soils, and drainage paths currently existing on the project site. Natural vegetative growth is encouraged after construction. Montana Department of Environmental Quality is the authority that administers Storm Water permits locally. The applicant will need to obtain a Storm Water Discharge permit from MT DEQ for construction activities including grading, clearing, excavation or other earth disturbing activities that disturb one or more acres. Montana Fish Wildlife & Parks suggests that disturbed areas be reseeded to regionally native species to reduce the overall impacts of the disturbance.

d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

APPLICANT: The Project does not require connection to the public water supply and will not create erosion and therefore will not impact surface or ground waters.

STAFF: The project will not interfere with the protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater based on the application materials submitted and the requirements of compliance with the MDEQ regulations regarding these criteria. Montana Fish Wildlife & Parks suggests that even though the proposed site has low value to wildlife, it is close to Benton Lake National Wildlife Refuge and encouraged the staff to contact Benton Lake NWR for comment. An interested agency notice was sent but Staff received no comment as of time of writing. A concern FWP has is the passage of waterfowl between Benton Lake Refuge and the Missouri River. FWP recommends using the design standards in the Fish and Wildlife Recommendations for Subdivision Development in Montana. To reduce the possibility of “Lake Effect” that solar plants can give off, FWP suggests breaking up the reflective surface with non-polarizing white borders to avoid the solar panels looking like a body of water. Having underground powerlines as well as a protocol in place for injured birds discovered on site are also suggestions from FWP.

2. The proposed development is a public necessity, or will not substantially impact the value of adjoining property.

Considerations:

a) The relationship of the proposed use and the character of the development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

APPLICANT: The existing character of the uses of the subject property and surrounding uses is very low density residential and agricultural uses. The project will be an un-manned solar farm that will not impact any existing uses outside of the boundaries of the project perimeter fence.

STAFF: The proposed development would not interfere with or cause conflict with the surrounding uses and development of the lands adjacent. While the proposed parcel is zoned Suburban Residential 2 (SR2), the surrounding land is used for agriculture, heavy industrial, high voltage powerlines, gas and electrical sub-station, commercial, and residential.

b. Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or County as a whole as to justify it regardless of its impact on the value of adjoining property.

APPLICANT: The Project will provide electricity generation that will be consumed locally with the Cascade County and Great Falls area. This electricity will reduce the amount of electricity that travels to the Great Falls area via transmission lines which will increase the efficiency of the electrical grid.

STAFF: The proposed development is not a public necessity. Staff finds based on the application materials, the impact analysis performed, and the proposed mitigation techniques collectively could be found to demonstrate that the proposed development will not substantially impact the value of adjoining property. The application materials included an impact study which was conducted by Richard Kirkland of Kirkland Appraisals, LLC. Mr. Kirkland used statistics throughout the United States in similar demographics of which he has appraised over 200 solar project impacts. While he states that he has not been asked to assign any specific value to any specific property, he has used neighborhood analysis and paired sales analysis for the basis of his conclusions. These conclusions support that the solar plant would not negatively impact the adjoining properties. The applicant has expressed that the proposed development is not necessary to the public health, safety, and general welfare of the community or County as a whole as to justify it regardless of its impact on the value of adjoining property.

3. *The proposed development will be in harmony with the area in which it is located.*

Consideration:

a. The relationship of the proposed use and the character of the development to surrounding uses and development,

including possible conflicts between them and how these conflicts will be resolved.

APPLICANT: Due to the passive nature of the facility and the rural character of the existing uses surrounding the project site, no conflicts are anticipated between the existing uses and the Project.

STAFF: With Suburban Residential (housing and common accessory buildings, sheds, shops, garages), Agricultural (horse boarding facilities/corals, grazing land), Commercial (communication tower), Industrial and Utility (North Western Energy electrical substation and petroleum pipeline station, overhead electrical power lines) type uses visible throughout the area, Staff believes that the project as presented, would be in harmony with the surrounding area which does include a variety of uses other than just suburban residential. The Cascade County Zoning Regulations allow by right several permitted principal uses within SR2 that could be considered to be less harmonious with the surrounding area zoning and surrounding area uses. For example, Educational Facilities, Public Buildings, Day Cares, Group Homes, Day Care Centers, Retirement Homes, Nursing Homes, and Public Institutions; all of which have the potential to have significant traffic volumes, noise, lights, glare, etc. that could be deemed to be less harmonious with the surrounding properties than the use proposed with this application. With the small size of the solar powered electrical generation facility that is proposed, the minimal impact from traffic, noise, glare, etc that this facility would produce during operation, along with the landscape plan proposed for softening the impact of its presence, staff finds that the proposed development can be considered to be in harmony with the area in which it is located.

4. *The proposed development will be consistent with the Cascade County Growth Policy.*

Considerations:

a. Consistency with the Growth Policy objectives for the various planning areas.

GOAL 1: Sustain and strengthen the economic well-being of Cascade County's citizens.

A. Stimulate the retention and expansion of existing businesses, new businesses, value-added businesses, wholesale and retail businesses, and industries including agriculture, mining, manufacturing/processing and forest products.

APPLICANT: The Project will add to the diversity of businesses in the Great Falls area and provide significant jobs and expenditures during the construction phase of the project.

STAFF: The project could be considered to stimulate the retention of existing businesses in that existing companies may be used for construction and maintenance. Expansion of existing businesses would be short term due to the initial construction and possible expansion of existing businesses due to maintenance needs of the proposed facility. The other types of business such as new businesses, value added businesses, wholesale and retail businesses and industries including agriculture, mining, manufacturing/processing and forest products would probably not be impacted positively or negatively by this application. The plant may increase solar technology by promoting further expansion in the county of these types of facilities.

B. Stabilize and diversify the county's tax base by encouraging the sustainable use of its natural resources.

APPLICANT: The Project will provide a significant tax revenue increase when compared to the existing use of the subject property.

STAFF: Based on the application materials submitted, the county's tax base would be helped by the diversity of this industry as Black Eagle does have one commercial solar facility. An additional solar plant would promote stabilizing the tax base as there would be an increase due to the property being taxed as commercial property and business equipment. This would be a higher tax than is currently being assessed on the land which is classified agricultural land (Vacant Land/Rural).

C. Identify and pursue primary business development that complements existing business, which is compatible with communities, and utilizes available assets. Identify and pursue targeted business development opportunities to include, but not limited to, manufacturing/heavy industry, telecommunications, and youth/social services.

APPLICANT: The Project will utilize a natural resource (sunlight) to create electricity that will be used locally in the Cascade County and Great Falls area. The Project will also provide construction jobs, tax revenue, and expenditures related to the construction and operations of the facility.

STAFF: Based on the application materials submitted, the project could be considered to identify and pursue business development that complements existing businesses. The existing businesses may be used for the construction and maintenance of the solar generating power plant facility. This also identifies and pursues new business development around solar generation facilities in Cascade County. It would also be expected that business development would be compatible with communities and utilize available assets such as using local products. Identifying and pursuing targeted business development opportunities to include, but not limited to manufacturing/heavy industry, telecommunications and youth/social services would not be impacted positively or negatively by this application.

D. Promote the development of cultural resources and tourism to broaden Cascade County's economic base.

APPLICANT: The project will not impact cultural resources or related tourism in Cascade County.

STAFF: Based on the application materials submitted, the project is not expected to promote the development of cultural resources. Also, this project is not expected to promote tourism and therefore will not have an immediate impact on tourism to broaden Cascade County's economic base.

E. Foster and stimulate well-planned entrepreneurship among the county's citizenry.

APPLICANT: Citizens and businesses in Cascade County will have the opportunity to participate in the construction and maintenance of the facility which will require significant expenditures by the Project.

STAFF: Based on the application materials submitted, the project may foster and stimulate well-planned entrepreneurship among the county's citizenry. While it does bring new ideas, technology, and energy production to the county, it cannot be determined if this will foster or stimulate well planned entrepreneurship among county citizens. This new industry has the potential to stimulate current farmers/ranchers to explore this type of energy production.

F. Promote a strong local business environment. Encourage and strengthen business support mechanisms such as chambers of commerce, development organizations and business roundtable organizations.

APPLICANT: Citizens and businesses in Cascade County will have the opportunity to participate in the construction and maintenance of the facility which will require significant expenditures by the Project.

STAFF: Based on the application materials submitted, the project may promote a strong local business environment, by encouraging and strengthening business support mechanisms such as chambers of commerce, development organizations and business roundtable organizations as this is a newer and upcoming industry to the county. By having a second solar power plant, other similar business models and plans may be brought to Cascade County. This project could be used as a template model and as a business model for other companies to bring similar proposals to Cascade County.

G. Improve local trade capture for Cascade County businesses. Promote local shopping as well as well-planned businesses and new businesses.

APPLICANT: The construction and maintenance related expenditures will provide significant benefit to existing businesses in Cascade County.

STAFF: Based on the application materials submitted, this project would improve local trade capture for Cascade County businesses, as existing businesses may be utilized for construction materials or other necessities. Those items may be purchased locally which would promote local shopping and well-planned businesses or new businesses as stores may diversify what they offer or current product lines they carry to meet the needs of the solar generation facility and the workers.

H. Network with and support other economic development efforts in the region and statewide, in recognition of Cascade County's interdependence with other communities and to leverage available local resources.

APPLICANT: The Project will create economic development through the use of natural sunlight to create energy. This project in addition to other solar projects in the region will add to the growing solar industry in Cascade County and surrounding communities.

STAFF: Based on the application materials submitted, the project would be a starting point to build a network with and support economic development efforts in the region and statewide, as the solar industry is new to Cascade County and Montana. Cascade County may be able to provide a statewide model that brings local resources such as construction, landscape and electrical workers or businesses to fill jobs that are available when bringing clean energy to their communities. As wind energy development in Cascade County has led to economic development efforts, collaboration with local educational facilities, and an increase in networking amongst professionals, solar projects of this type may also lead to similar results.

I. Encourage the growth of the agricultural economy.

APPLICANT: The project will not negatively impact the agricultural economy.

STAFF: Based on the application materials submitted, the growth of the agricultural economy would not be affected positively or negatively. The parcel of land the project is seeking to use is not used for agriculture purposes currently. The growth of the agricultural economy may not be encouraged in the County, as farmers and ranchers are facing low returns on agricultural products and may attempt to incorporate a solar farm on what once was a high dollar wheat field or cattle operation in order to cut losses.

J. Stimulate the growth of the economy by encouraging the use of alternate methods of energy production, including wind energy.

APPLICANT: The Project is a solar energy generation facility.

STAFF: Based on the application materials submitted, the project would stimulate the growth of the economy by encouraging the use of alternative methods of energy production, but rather than including wind energy, this energy production includes solar energy.

Goal 1 of the Growth Policy analysis by staff, concludes the applicant has demonstrated relative information for a determination that they have met, in part or in whole, objectives A, B, C, D, F, H and J. With regards to Goal 1, Objective E to “foster and stimulate well-planned entrepreneurship among the County’s citizenry”, and Objective G to “improve local trade capture for Cascade County businesses. Promote local shopping as well as well-planned businesses and new businesses”, staff finds that these are subjective for the application submitted. Analysis of Objective I, “encourage the growth of the agricultural economy,” it can be found that this project does not hinder or promote the agricultural economy.

GOAL 2: Protect and maintain Cascade County’s rural character and the community’s historic relationship with the natural resource development.

Objectives:

A. Foster the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests.

APPLICANT: The project will not negatively impact the agricultural or forestry industries.

STAFF: Based on the application materials and mitigation plans submitted, the project was structured to minimize disturbance of the land’s current state, allowing the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests. Therefore, it is not expected to have a positive or negative effect on their economic contribution nor the intrinsic natural beauty of grazing areas, farmlands, and forests.

B. Preserve Cascade County’s scenic beauty and conserve its forests, rangelands and streams, with their abundant wildlife and good fisheries.

APPLICANT: The project will not negatively impact the Cascade County scenic beauty or natural environment. It will help to reduce the amount of energy generated by traditional carbon based systems that do create pollution and negatively impact the environment.

STAFF: Based on the application materials submitted, the project would conserve Cascade County’s forests, rangelands and streams, with their abundant wildlife and good fisheries. There is reasonable evidence that this objective will be met with the implementation of proposed mitigation conditions.

C. Preserve Cascade County's open space setting by encouraging new development to locate near existing towns and rural settlements and by discouraging poorly designed, land subdivisions and commercial development.

APPLICANT: The Project will not lead to an expansion of residential or commercial developments outside of the existing Great Falls area.

STAFF: Based on the application materials submitted, there is reasonable evidence that the goal to preserve Cascade County's open space setting by encouraging new development to locate near existing towns and rural settlements and by discouraging poorly designed land subdivisions and commercial development is met by this proposed use. The tract of land proposed for this development is located near the existing Great Falls city boundary.

D. Assure clean air, clean water, a healthful environment and good community appearance.

APPLICANT: The project will produce clean renewable energy that will be consumed locally within Cascade County.

STAFF: Based on the application materials submitted, the project should not inhibit the assurance of clean air and clean water, a healthful environment and good community appearance. This is a reasonable finding with the implementation of proposed mitigation conditions as well as the lands adjacent to the proposed parcel having no residences on them except for the owners of the proposed parcel having their personal home, and renting out of two mobile homes. While producing energy in a way that reduces carbon emissions, Cascade County is promoting a green energy resource. To uphold good community appearance, the applicant plans to construct a landscaping buffer along the north side of the solar plant that is visible to the residences located on Bootlegger Lateral.

E. Support the development of natural resources including but not limited to timber, mining, oil and gas production, and renewable energy production.

APPLICANT: The project is a solar energy generation facility.

STAFF: Based on the application materials submitted, the project supports the development of natural resources in renewable energy production.

F. Continue to work with federal and state agencies to redevelop properties within Cascade County which are currently undergoing Superfund and Brownfields process.

APPLICANT: The project will not negatively impact development of brownfield and superfund sites.

STAFF: Based on the application materials submitted, this use would not have an impact positively or negatively on this goal.

Goal 2 of the Growth Policy analysis by staff concludes the applicant has demonstrated relative information for a determination that they have met, in part or in whole, Objectives B, C, D, and E. Objective A “foster the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests” is not promoted or hindered by the proposed use. Objective F would not be impacted as it does not apply to this application as this site is not a Brownfield or Superfund site.

GOAL 3: Maintain Agricultural economy

A. Protect the most productive soil types.

APPLICANT: The project is not located on an active agricultural operation and is not located on productive soil.

STAFF: Based on the application materials submitted, there are no soil types that are prime farmland. The current use of the land is unfarmed but could be considered available to be grazed if the owners desired. The proposed use will prevent that portion of the property from being used for agricultural purposes in the area in which the panels would be located.

B. Continue to protect soils against erosion.

APPLICANT: Through the lack of grading and maintaining the existing vegetation on the site, the project will not increase soil erosion from the subject property.

STAFF: Based on the application materials submitted, the proposed use will continue to protect soils against erosion. Any disturbed soils will be reseeded after construction.

C. Protect the floodplain from non-agricultural development.

APPLICANT: The project is not located in a flood plain.

STAFF: Based on the application materials submitted and review of the sites by the Cascade County Floodplain Administrator, the proposed solar facility is not located within the 100-year FEMA regulated floodplain and will protect the floodplain from nonagricultural development.

D. Support the development of value-added agricultural industry in Cascade County utilizing the products from the regional area.

APPLICANT: The project will not negatively impact the agricultural economy.

STAFF: Based on the application materials submitted, there is no evidence that this proposal will support the development of value added agricultural industry in Cascade County.

Goal 3 of the Growth Policy analysis by staff, concludes the applicant has demonstrated relative information for a determination that they have met, in part or in whole, Objective B with proper maintenance, and Objective C by not being located within the floodplain. It does not meet Objective A as the tracts of land will not be used for agriculture, and it does not meet Objective D as it would not support the development of value-added agricultural industry in the County utilizing products from the regional area.

GOAL 4: Retain the presence of the US Military in Cascade County.

Objectives:

- A. Encourage the federal congressional delegation to actively support maintaining the current mission status at a minimum.***
- B. Promote the location of additional military missions in Cascade County.***
- C. Encourage the reactivation of the runway at Malmstrom Air Force Base for fixed wing operations.***
- D. Refer to the Joint Land Use Study for resolving conflicts and promoting mission compatible development.***

APPLICANT: The Project will not impede the activities of the US Military in the area. Additionally, Pacific Northwest Solar is supportive of the US Military and any activities in Cascade County.

STAFF: Based on the application materials submitted, the proposed solar farm will not impact US military facilities in the county and the solar farm is compatible with the above objectives.

Goal 4 of the Growth Policy analysis by staff concludes that the project does not impact positively or negatively the military's presence in Cascade County.

GOAL 5: Preserve and enhance the rural, friendly and independent lifestyle currently enjoyed by Cascade County's citizens.

Objectives:

- A. Maintain Cascade County's citizens independent lifestyle and minimize local governmental intervention, to the extent possible, consistent with the requirements of a continually evolving economy and constantly changing population.***

APPLICANT: The Project will add to the economic diversity and the energy independence in Cascade County.

STAFF: Based on the application materials submitted, it would be expected that the project would not interfere with the ability to maintain Cascade County's citizens independent lifestyle and minimize local government intervention due to increasing the diversity of the economy.

B. Preserve and promote Cascade County's rich cultural heritage, rooted in natural resource development and reflected in its numerous cultural/historic sites and archaeological areas.

APPLICANT: The Project will not negatively impact cultural or historic areas in Cascade County.

STAFF: Based on the application materials submitted, this project would not have an impact on preserving or promoting the county's rich cultural heritage or cultural/historic sites as this proposed site does not have any historical or cultural significance. The proposed use by this application would promote natural resource development.

C. Promote fire prevention measures throughout the county, giving special emphasis to the extreme fire hazards present at the wild land/urban interface.

APPLICANT: In order to reduce fire hazards, the project will maintain a low level of standing vegetation on the project site and will work with the fire department to ensure access and knowledge of the solar facility.

STAFF: Based on the application materials submitted, the project is considered to meet this objective as the proposed use will not increase fire hazards significantly, and may be considered a good location given the close proximity to the Black Eagle Fire Department.

D. Encourage the continued development of educational programs and facilities, recreational opportunities and spaces and health services for all county residents.

APPLICANT: The project will not negatively impact education programs, facilities, recreational opportunities and spaces, and health services in the County.

STAFF: Based on the application materials submitted, the project would not positively or negatively impact educational programs and facilities, recreational opportunities and spaces and health services for all county residents.

E. Consistency with the municipal and joint land use plans Incorporated by the Growth Policy.

APPLICANT: The project is located in an area that will not create conflicts with current or planned future uses of the subject property and the surrounding areas.

STAFF: Based on the application materials submitted, the development of a solar plant on the proposed parcel should not create issues with the adjacent land uses being agricultural and non-developed aside from the proposed parcel.

Goal 5 of the Growth Policy analysis by staff, concludes the applicant has demonstrated relative information for a determination that they have met, in part or in whole, Objectives B, C, and D. Objective A “Maintain the citizen’s independent lifestyle or minimize local governmental intervention” would not have an effect.

STAFF: Based on the application materials submitted, staff finds that the application can be considered to be generally consistent with the applicable Growth Policy goals and objectives and the use could be determined to be in conformity with the application of the analysis of the Growth Policy. Staff also finds that the application is consistent with our municipal and joint land use plans incorporated by the Growth Policy, specifically the Joint Land Use Study and the Development Coordination Area as the proposed use is not located within an area that would be in conflict with these functions.

Section 18.6 Operations

Operations in connection with the unclassified use permits shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

STAFF: Based on the application materials submitted, the operation of a solar power plant would not be more objectionable to nearby properties or current allowed uses which include Suburban Residential (housing and common accessory buildings, sheds, shops, garages), Agricultural (horse boarding facilities/corals, grazing land), Commercial (communication tower), Industrial and Utility (North Western Energy electrical substation and petroleum pipeline station, overhead electrical power lines) type uses which are visible throughout the area. The operation will not produce audible sounds from the property boundaries, will not produce any fumes or offensive odors during the process, there will be no vibrations associated with the project and no flashing lights would be placed on the property or equipment as part of this project. Therefore, it can be determined that this project would not be any more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

Other agency comments not included in the analysis of the growth policy:

FWP commented on 2017 observations of grizzly bears in the Northern Continental Divide ecosystem and stated that grizzly bears may use the area proposed for the bootlegger solar plant as their territory expands beyond the Rocky Mountain front and into the Great Falls area.

RECOMMENDATION:

The following alternative motions are provided for the Board's consideration.

- A. Alternative 1: Move the Unclassified Use Permit to allow the installation/operation of a photovoltaic solar power generation facility be **denied** due to (ZBOA member proposing denial must delineate legal reason that the application be denied): or,
- B. Alternative 2: Move the Board adopt the staff report and **approve** the Unclassified Use Permit to allow the installation/operation of a photovoltaic solar power generation facility on the property, subject to the following conditions:
 - 1. Comply with applicable requirements in Section 8.9 "Power Plants" and Section 8.12 "Solar Power Plants" and Section 18 "Unclassified Use Permits" of the Cascade County Zoning Regulations.
 - a. Subject to section 18(3) Landscaping Buffer: as determined by the Zoning Board of Adjustment through the Unclassified Use Permit process with considerations of location, size of parcel and topography of parcel. Appropriate landscaping and/or screening materials may be required to help screen the solar power plant and accessory structures from major roads and neighboring residences.
 - b. Subject to section 18(6) Safety/Access: An appropriate security fence (height and material to be determined through the Unclassified Use Permit process) shall be placed around the perimeter of the solar power plant.
 - 2. Final approval from the Montana Public Service Commission to generate and sell power.
 - 3. All Storm Water generated will remain on the property being developed. All required permits must be obtained prior to construction.
 - 4. Mitigate or alleviate any requirements by the F.A.A.
 - 5. Provide routine maintenance of landscaping and buffer areas including proper weed control to prevent soil erosion, and properly maintain appearance.

6. Obtain an approach permit from the Montana Department of Transportation for the approach on and off of Bootlegger Trail.
7. The applicant obtains all required county, state, or federal permits and comply with regulations associated with any other permits.
8. Obtain an address for the site as required by Cascade County Public Works Department.

Attachments:

- Unclassified Use Permit Application
- Vicinity Map
- Interested Agency Comments, FWP